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Developer Contributions SPD (Adopted 2021)

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1 Introduction

Purpose of the Document

1.0.1 Supplementary Planning Documents (SPDs) are documents which add further details to policies contained in a Local Plan. SPDs are a form of Local Development Document produced under the Planning and Compulsory Purchase Act 2004 (as amended)⁽¹⁾. They do not form part of the Development Plan for an area, but become a material consideration in decision making when a Local Planning Authority is determining whether to approve or refuse planning permission for an application.

1.0.2 The aim of this SPD is to set out the Council's proposed approach to the use of Section 106 (S106) agreements to secure developer contributions from new developments. This will assist planning officers, applicants, service providers, Councillors and members of the public through the planning application process, ensuring that the process is fair and transparent and is applied consistently.

1.0.3 It is important to note that SPDs should not introduce new policies and should not add significantly to the financial burden on developments.

What are Developer Contributions?

1.0.4 Developer Contributions, commonly known as planning obligations, are legal obligations entered into to mitigate impacts of a proposed development. They are entered into under Section 106 of the Town and Country Planning Act 1990⁽²⁾ by the developer and/or landowner, the local planning authority, and potentially other service or infrastructure providers linked to a proposal or mitigation scheme. They are legally binding and enforceable.

Community Infrastructure Levy

1.0.5 The other main form of developer contribution is the Community Infrastructure Levy (CIL).

1.0.6 Stevenage Borough Council adopted a CIL Charging Schedule in January 2020 and started implementing CIL on 01 April 2020. CIL is a non-negotiable charge on new built development which meets the thresholds identified in the Community Infrastructure Levy Regulations (2010) (as amended)⁽³⁾. CIL replaces the need to secure developer contributions through S106 agreements in many instances, allowing for infrastructure and service provision to be planned and implemented on a more strategic, borough-wide scale rather than in a piecemeal approach as mitigation against the impacts of individual developments.

1.0.7 The Council must publish its CIL funding priorities each year in an Infrastructure Funding Statement. Like S106 agreements, CIL liabilities are legally binding and enforceable, albeit through different legislative procedures.

1.0.8 The Council will still require applicants to enter into S106 agreements in some instances. This document sets out the instances where S106 agreements will be sought, what will be included in them, and how contributions will be calculated.

1 [Planning and Compulsory Purchase Act 2004 \(as amended\)](#)

2 [Town and Country Planning Act 1990](#)

3 [Community Infrastructure Levy Regulations 2010](#)

Scope

1.0.9 The contents of this SPD are not to be considered exhaustive. Whilst the majority of future developer contributions are expected to relate to the contents of this SPD, the Council cannot list every instance of site-specific impacts caused by potential developments that need to be mitigated, so there will always be a chance that a S106 will need to contain something not included in this SPD.

1.0.10 Nor does the SPD contain all the details of how demand, mitigation and monetary figures are to be quantified for developer contributions. Not all of these methodologies are under the control of the Council and even those that are, are subject to changes which would render the SPD out of date. The SPD will outline the principles behind the calculations and will identify where further information can be found.

1.0.11 In essence, this document should be used to identify where developer contributions may be required in addition to the payment of a CIL charge for a proposed development. We advise that applicants always engage fully with the LPA and other infrastructure/service providers near the time of submitting an application to gain a better understanding of the exact amounts they may be expected to contribute.

1.0.12 The main topics covered in this SPD are:

- Community Infrastructure Levy
- Hertfordshire County Council contributions
- Housing
- Commuted Sums to mitigate against policy non-compliance
- Site-specific mitigation
- Employment opportunities
- Parking and Sustainable Transport
- Monitoring fees

Production of this SPD

1.0.13 The procedure to adopt a new SPD is set out in the Town and Country Planning (Local Planning) (England) Regulations 2012⁽⁴⁾.

1.0.14 The Council published a draft version of this Developer Contributions SPD for public consultation between 30 November 2020 and 25 January 2021. Respondents' comments were considered and incorporated into this final version. The Council formally adopted the Developer Contributions SPD on 18 March 2021 after a decision made by the Council's Executive.

4 [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#)

2 Policy Context

Local Policy

2.0.1 This SPD has been produced to provide additional guidance to Policy SP5: Infrastructure from the Stevenage Borough Local Plan, in particular parts a and b:

Policy SP5: Infrastructure

This plan will ensure the infrastructure required to support its targets and proposals is provided. New development will be required to contribute fairly towards the demands it creates. We will:

a. Permit permission where new development

i. Makes reasonable on-site provision, off-site provision or contributions towards (but not limited to) the following where relevant:

affordable housing; biodiversity; childcare and youth facilities; community facilities; community safety and crime prevention; cultural facilities; cycling and walking; education; flood prevention measures; Gypsy and Traveller accommodation; health care facilities; leisure facilities; open spaces; passenger transport; play areas; policing; public realm enhancement; road and rail transport; sheltered housing; skills and lifelong learning; sports; supported housing; travel plans; utilities and waste and recycling.

ii. Includes measures to mitigate against any adverse impact on amenity or the local environment where this is appropriate and necessary; or

iii. Meets any specific requirements relating to individual sites or schemes set out elsewhere in this plan;

b. Use developer contributions, legal agreements, levies or other relevant mechanisms to make sure that the criteria in (a) are met;

2.0.2 Policy SP5 is the key strategic policy related to developer contributions in the Local Plan. However, the Local Plan places many requirements on proposed developments. Other policies specify these demands throughout the Plan. As such, this SPD is designed to support the Local Plan as a whole and should be read in combination with the entire contents of the Local Plan.

National Policy

2.0.3 Paragraph 54 of the National Planning Policy Framework (2019) states that:

NPPF paragraph 54

Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

2.0.4 Planning Practice Guidance gives more information on developer contributions and states that:

PPG Paragraph: 003 Reference ID: 23b-003-20190901

Where the Community Infrastructure Levy is in place for an area, charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs.

2.0.5 The Council is a CIL Charging Authority and under recent amendments to CIL Regulations⁽⁵⁾, is required to publish an Infrastructure Funding Statement which states what the Council's spending priorities for its CIL receipts are.

2.0.6 The PPG also states that:

PPG Paragraph: 003 Reference ID: 23b-003-20190901

Authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in infrastructure funding statements which infrastructure they expect to fund through the levy.

2.0.7 This means that whilst the Council may already be intending to spend CIL receipts on a particular item of infrastructure, they may also request S106 contributions towards the same project. However, in line with Regulation 122 of the Community Infrastructure Levy 2010 (as amended)⁽⁶⁾, each developer contribution within a S106 agreement must meet the following three tests:

CIL Regulation 2010 (as amended) Regulation 122

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development.*

⁵ [The Community Infrastructure Levy \(Amendment\) \(England\) \(No. 2\) Regulations 2019](#)

⁶ [Community Infrastructure Levy Regulations 2010](#)

2.0.8 Important to the production of this SPD, the PPG states that:

PPG Paragraph: 003 Reference ID: 23b-004-20190901

...It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination...

2.0.9 Whilst there are undoubtedly formulaic methods of calculating developer contributions that are commonly used, the inappropriateness to include formulas in an un-examined SPD document is to enable the local planning authority to ensure that any developer contribution sought through a S106 agreement for any individual planning application meets the tests of Regulation 122 above.

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3 Community Infrastructure Levy

CIL

3.0.1 Stevenage Borough Council is a CIL authority. Any application granted permission after 01 April 2020 may be liable to pay a CIL charge which is calculated based on the size, type and location of the development. The thresholds for whether a proposed development pays a CIL charge are if a development:

- Involves a new build that creates net additional floorspace (based on gross internal area) of 100m² or more,
- Involves the creation of one or more dwellings, or
- Involves change of use to residential where the existing floorspace has not been in continuous use for at least 6 months in the previous 3 years.

3.0.2 Details of the Council's CIL Charging Schedule can be found on the Council webpages at www.stevenage.gov.uk/CIL

Table 1 SBC CIL Charging Schedule (rates set 01 April 2020)

Development Type	CIL Rate (per sqm)	
	Zone 1 (Stevenage Central, Stevenage West Urban Extension, North of Stevenage Extension)	Zone 2: Everywhere else
Residential		
Market Housing	£40	£100
Sheltered Housing	£100	
Extracare Housing	£40	
Retail Development	£60	
All other development	£0	

3.0.3 The webpages contain the Stevenage CIL Charging Schedule and associated policies including the Instalments Policy. The webpages also contain a SBC CIL Guidance document which has a detailed explanation of liability, calculations, exemptions and relief, the CIL process, CIL Forms, CIL payment, enforcement and appeals.

3.0.4 The Council's annually updated Infrastructure Funding Statement will be published on this page. This will contain a list of the Council's CIL funding priorities.

3.0.5 It is expected that the majority of applications for built development, with the exception of the majority of householder applications, will be liable to pay a CIL charge. Some householder applications will be required to pay, but only if they propose 100 sqm or more built development and don't seek a residential extension exemption.

4 Hertfordshire County Council Contributions

County Council Services

4.0.1 Local Government in Hertfordshire operates under a two-tier system. As such, Stevenage Borough Council has the legal responsibility to provide some but not all local services. Hertfordshire County Council (HCC) is the upper tier authority and is responsible for delivering and maintaining much of the large scale infrastructure that its residents and businesses require, such as roads, schools, waste disposal services and libraries.

4.0.2 When planning applications are submitted to Stevenage Borough Council, HCC is consulted and will provide appropriate advice and comments regarding the needs of infrastructure for which is it responsible. In planning authorities without a CIL Charging Schedule, HCC would seek to secure developer contributions via a S106 agreement to mitigate against the impacts on HCC service provision. This would most commonly include services such as:

- Sustainable Transport,
- Passenger Transport,
- Education,
- Early Years Education,
- Libraries,
- Youth Services,
- Fire and Rescue Services,
- Waste Disposal, and
- Adult Care Services.

HCC Household Waste Recycling Centre



4.0.3 For further information and an explanation of the current position of HCC S106 requirements and developer contributions please contact them on the following email Growth@hertfordshire.gov.uk.

4.0.4 Now that Stevenage Borough Council has adopted a CIL Charging Schedule, many of these service provisions are no longer considered suitable for collection via a S106 agreement. This is because CIL allows for the borough-wide planning of infrastructure and service provision so CIL receipts can be used to improve service provision on a borough-wide scale rather than as mitigation on a proposal-by-proposal basis.

4.0.5 If HCC identify the need to improve the capacity of services due to combined demand of development in the area, it will be able to submit a bid to SBC to be allocated a portion of the Council's collected CIL receipts to help fund the new/improved service. This is a process outside of the decision-making process for individual planning applications.

4.0.6 For individual planning proposals, a decision will need to be made by the planning authority, with input from the infrastructure/service provider, whether a proposed development causes an impact that requires direct mitigation. Where the need for mitigation is demonstrated, developer contributions will be sought, however, it is unlikely that the Council will seek to secure developer contributions for these services as standard unless a proposed development can be shown to have an impact that requires specific mitigation to make a proposal acceptable in planning terms. This is in line with Regulation 122 of the CIL Regulations 2010 (as amended).

4.0.7 For minor developments, it is unlikely that developer contributions will be sought through S106s for any of these services in addition to the CIL charge associated with the proposal. However, the County Council reserves the right to seek financial contributions if it can demonstrate that contributions are required to make the proposal acceptable in planning terms.

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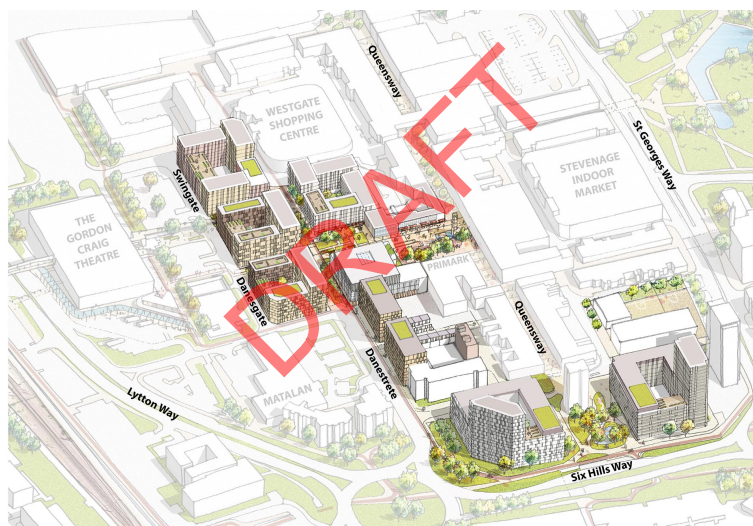
5 Strategic Sites

Strategic Sites

5.0.1 Strategic sites allocated in the Local Plan have a large number of policy requirements as identified through by stakeholders during Local Plan production and agreed through the Local Plan Examination process. The vast majority of these requirements should be provided on-site as part of the development so their delivery will be contained in submitted plans and conditioned by the planning permission.

5.0.2 Some of the requirements will need to be secured as a developer contribution by S106 due to the nature of how they are provided for. This includes, for example, primary education contributions. HCC, the local education authority, requires land to be provided and financial contributions to be made towards the build costs and this would be inappropriate through a planning condition so must be included in a S106. Statutory consultees, such as the County Council or Highways England, are able to secure developer contributions where necessary to mitigate an impact of a proposed development to make the proposal acceptable in planning terms.

SG1 Masterplan



5.0.3 As a starting point for strategic sites, and likely for large windfall sites, it is expected that the Council will seek to secure developer contributions towards the following, non-exhaustive, list of infrastructure/services in addition to collecting a CIL charge:

- Affordable Housing
- Primary Education
- NHS GP provision
- Passenger transport
- Travel plans
- Fire hydrants

5.0.4 More detail can be found on these items in the Chapters 7, 8 and 9 of this document.

5.0.5 It is also important to note that the demand for infrastructure is not restricted by local authority boundaries. Stevenage is a constricted authority and our neighbouring planning authorities may promote and/or approve sites within their administrative boundaries which are essentially

extensions to the town of Stevenage. In these instances, developers outside of the borough may be required to fund infrastructure within the borough, and this could also occur vice versa where developments within Stevenage would use infrastructure outside of the borough.

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6 Viability

Assessments

6.0.1 National policy states that where up-to-date local policies set out the contributions required of development, policy-compliant planning applications should be assumed to be viable⁽⁷⁾. This puts the onus on developers to demonstrate any change in circumstances since the Local Plan was adopted that justifies the need for a viability assessment.

6.0.2 Where viability issues are used to demonstrate that schemes should provide below policy-compliant levels of developer contributions, the application must be supported by an 'open book' viability assessment and the applicant must fund the Council to appoint third party consultants to appraise the assessment to ensure its findings are appropriate and in line with Planning Practice Guidance and best practice. This should include establishing a benchmark land value for a site on the basis of the existing use value of the land, plus a premium for the landowner to reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land. Viability assessments should use standardised inputs as the core data for the assessment.

6.0.3 Overpayment of land will not be considered a reason for a scheme being considered unviable to reduce developer contributions.

Review Mechanisms

6.0.4 When the Council agrees with an applicant's demonstration that a scheme is unviable and developer contributions are reduced on viability grounds as a result, the Council will seek the inclusion of a viability review mechanism and overage clause in the S106 agreement.

6.0.5 This will ensure that viability can be reassessed at a later date, with more up to date evidence, that may show that the scheme ended up being more profitable than was originally predicted at the planning application stage, based on the evidence used at the time of the original assessment.

6.0.6 If a viability review concludes that there has been an uplift in viability and that there will be a larger surplus that could be used to provide developer contributions in line with the latest guidance and best practice, the overage clause will ensure the Council can request greater contributions than stated in the original S106 agreement and will be able to ensure their payment prior to occupation of an agreed number of units (to be agreed and specified in the S106 covenant). If there is an uplift in viability, the Council's preference will first be to increase the supply of affordable housing and will first seek to ensure policy-compliant levels of affordable housing for the remainder of the scheme, and if possible based on the findings of the viability review, seek above policy-compliant levels of affordable housing on the remainder of the scheme to try and achieve policy compliant provision of affordable housing for the overall scheme.

6.0.7 The Council will consider how many reviews might be appropriate and will consider the timing/s for a review/s on a case-by-case basis. This will be dependent on the size of the scheme and expected rate of build-out. If a development has multiple phases, it may be appropriate to review the viability at a point during each phase for example, or at the submission of any subsequent Reserved Matters applications. All viability reviews will be undertaken at a cost to the applicant.

7 NPPF Paragraph 57

7 Housing

Affordable Housing

7.0.1 The requirements for affordable housing provision are set out in Policies HO7 and HO8 of the Local Plan. Applicants are encouraged to submit demonstration of how they meet the requirements of those policies within one of the following: Design and Access Statement, Planning Statement, or Environmental Statement.

7.0.2 When calculating the number of affordable units required, the appropriate percentage of the total number of units being delivered should be rounded up to the nearest whole number.

7.0.3 The Council's overriding preference is for the provision of affordable housing on-site. However it is accepted that this is not appropriate or possible for all schemes. In these instances, the Council will prefer off-site provision of affordable units if it can be arranged, and a financial contribution in lieu of policy non-compliance if not.

Affordable Housing as part of Kenilworth Road Scheme



7.0.4 Whilst Policies HO8 and HO9 give an indication of the type and tenure of affordable housing units being provided, the Council's Housing Team should be consulted to ensure the affordable housing being provided contains an acceptable range of types and size of unit that suits up to date demand.

7.0.5 As far as practicably possible, all affordable housing should be indistinguishable from market housing and should be distributed evenly around development sites and in line with national guidance, 100% of socially rented housing should be built to M4(2) Category 2 accessible and adaptable standards.

7.0.6 The S106 should, at a minimum, include the following details related to the affordable housing provision:

- The number of affordable housing units being provided,
- The number of each type and tenure of affordable housing units being provided,

- The trigger points for delivery and/or transfer of affordable housing units,
- Any restrictions on the progress of other development/sale/occupation related to the delivery/transfer of affordable housing

7.0.7 If housing is being delivered in phases, affordable housing should be delivered evenly throughout the duration of delivery and not back-loaded onto later phases. In some instances, the viability of a scheme may require that affordable housing is back-loaded, but the Council will resist granting permission to proposals with the provision of no or very low levels of affordable housing in earlier phases where viability is not a consideration.

7.0.8 If Vacant Building Credit is sought to reduce the level of affordable housing required, the applicant should provide compelling evidence to demonstrate that the site has been marketed sufficiently and with terms (price and length of lease for example) that are comparable to similar properties on the local market.

7.0.9 In some instances, such as proposals for a retirement village where accommodation is not all classed as a C3 land-use, it might be appropriate to take a proportionate approach to the provision of Affordable Housing. In these instances, much of the proposed floorspace would be required to support the residential units and would not be saleable floorspace so the viability of affordable housing would like be less than for proposals entirely made up of C3 units.

Affordable Housing at Archer Road scheme



7.0.10 If providing units off-site, the percentage required by Policy HO7 should be applied to the total number of units on- and off-site, not just to the number of units being provided on-site as that would result in a non-compliant provision of affordable housing.

7.0.11 If providing financial contributions, the amount should be calculated based on policy-compliant provision for the proposed development, using a cost-per-unit for the type of affordable housing that would likely have been provided on the development site. For example, in a flatted scheme, it would be appropriate to use a cost to provide an appropriate range of 1-, 2- and 3-bed flats whereas for a housing scheme, it would be more appropriate to use a cost to provide a range of houses. What constitutes an appropriate range of houses to base the payment on should be agreed with the Council's Housing Team.

7.0.12 Developer contributions are often subject to expenditure deadlines which state, within the S106 legal agreement, when the contribution must be spent by. After that deadline, developers can request repayment of any unspent funds. Financial contributions related to affordable housing projects are at a particular risk of repayment because schemes can take a significant amount of time to be delivered. Each scheme contains a number of complex stages, including: identification and procurement/disposal of suitable plots of land; design and determination through the planning system; and completing the actual project. To maximise the potential for the Council to deliver affordable housing units, all financial contributions in-lieu of on-site provision should be subject to long-term expenditure deadlines of at least 10 years.

Aspirational Housing

7.0.13 Strategic Housing policies HO2-HO4 and HO9 require developments to provide at least 5% of units to be aspirational housing. This is in order to address long-standing issues with the town's housing offer, namely the prevalence of small-medium, terraced dwellings and a lack of large family homes.

7.0.14 Aspirational housing should be secured by condition of appropriate plans and drawings but may be included in the S106 agreement in multi-phase developments to ensure the delivery of aspirational homes is spread as evenly as possible throughout the duration of the scheme and not back-loaded to later phases.

Self-Build or Custom-Build Housing

7.0.15 Policy SP7 and HO2-HO4 require 1% of units to be self-build plots. These require outline planning permission prior to them being marketed, firstly to the Council's Self-Build Register and subsequently, if the Self Build Register did not result in a sale, to the open market.

7.0.16 Self-Build plots must have permission that permits the purchaser and developer of the site to implement innovative design and methods of construction. However, as the plots are likely to form part of a wider community, it would be appropriate for the permission to set out: the highway layout, the provision of services, intended communal and/or open space, the extent of individual plots and the unit type expected for individual plots, and general design parameters related to sizing, massing, positioning, and facades of material palettes.

7.0.17 It would also be appropriate to include a time limit to commence or complete self-build developments which the Council could subsequently enforce to ensure delivery of units.

7.0.18 The S106 should include details regarding: the number of plots being delivered, the trigger points for their delivery and marketing and/or transfer, the transfer and cost associated with the transfer (if applicable), and a reversion clause giving a minimum 2 year period for marketing of the plots before any unsold plots revert to other forms of housing.

7.0.19 It is the Council's preference that on multi-phase developments, Self-Build plots are completed, marketed and/or transferred evenly throughout the duration of the development and not backloaded to later phases. It would be preferable for Self-Build plots to be grouped together. This can be in small groups if it enables delivery of Self-Build units in each phase of a scheme rather than all at one time.

7.0.20 It is the Council's preference that the developer markets and arranges sale of the freehold to each of the plots. The Council will assist the developer in their efforts by contacting those on the Self Build Register to confirm that they are happy to be contacted by a third party with marketing communication.

7.0.21 If the developer does not wish to market the plots themselves, they should transfer the freehold of the plots to the Council for a nominal fee which could cover the costs of associated with providing services to the plots, but not including the value of the land.

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8 Commuted Sums In-Lieu of On-Site Provision

Policy Compliance

8.0.1 Local Plan policies set out the thresholds and requirements for developers to provide items such as open space or community facilities on-site in addition to the residential or non-residential development being proposed. Ideally, all developments will provide all policy requirements on-site to achieve policy-compliance, however either because of constraints on-site or viability reasons, this is not always possible.

8.0.2 In such instances, the Council will seek financial contributions through a S106 agreement in order to provide the requirement elsewhere.

Open Space

8.0.3 Open spaces provide a valuable resource, particularly in an urban environment such as Stevenage which has historically been designed to give residents excellent access to open space. The Local Plan set out the Council's open space standards for various kinds of open space that should be provided by new developments.

8.0.4 The open space standards are set by expected population of a new development and instructions are given for how to calculate the population. This enables developers to know exactly how much open space they should be providing if they have met the minimum threshold for it to be a requirement.

Stevenage Open Space



8.0.5 Where a development cannot meet the open space standards, they will be expected to agree to provide a developer contribution through a S106 agreement to offset the under-provision on-site. The contribution will be used to provide the equivalent space elsewhere in the borough, or to fund improvements to existing open space to ensure it meets the additional burden on it from the new resident population.

8.0.6 The Council's internal officers will be able to identify the project for developer contributions to go towards and a cost will be calculated based on the project and level of under-provision on-site.

8.0.7 Long-term management of new open spaces must be provided for, either by the developer appointing a management company for a suitable period of time, or where sites are transferred to and adopted by the Council, a sum sufficient to ensure maintenance for a period of at least 10 years will be required.

Sports Provision

8.0.8 The Local Plan specifies the requirements for Strategic Sites to provide elements of sport provision identified through the Local Plan Examination process. Where these cannot be met, off-site provision or a financial contribution should be secured through the S106 to ensure that any under-provision on-site is accounted for elsewhere. Negotiations with the Council's internal officers will be necessary to identify appropriate projects and to calculate a sufficient financial contribution. The Council will seek advice from Sports England on these matters to help inform and justify the Council's position.

8.0.9 On non-strategic sites, it is likely that the Council's CIL receipts will be used to fund sports provision on a borough-wide scale, amongst other forms of funding available, unless Sport England can demonstrate that a development causes a specific impact which requires mitigation. Where this is the case, they will use the latest Sport England facility cost data and will use the latest Council sports strategies to identify appropriate projects.

Canterbury Playing Fields



8.0.10 For sports facilities on school sites, there will be a need to agree to a Community Use Agreement to ensure that local communities can benefit from the facility and have access to it in evening and at weekends. Often this will be secured by S106 agreement, but for minor schemes where there are no other requirements for a S106 this should be secured via planning conditions.

8.0.11 As with open spaces, long term-management of sports facilities must be provided for, particularly for outdoor facilities, either by the developer appointing a management company for a suitable period of time, or where sites are transferred to and adopted by the Council, a sum sufficient to ensure maintenance for a period of at least 10 years.

Biodiversity Net Gain

8.0.12 The Government's release of the Environment Bill foretold of a future legal requirement which will be placed on developers to provide a 10% net gain in biodiversity as part of any development.

8.0.13 Due to this being a relatively new concept, and a potentially complex item to quantify, monitor and enforce, the Council has decided to produce a separate Biodiversity SPD, a draft copy of which is being published for consultation at the same time as this Developer Contributions SPD and likely to be adopted at a similar time.

8.0.14 The SPD contains details of the engagement with the Council, how to measure existing levels of biodiversity on-site, how to quantify the additional net gain, how to deliver the net gain, and how to monitor it.

8.0.15 It also explains how to calculate a financial contribution in lieu of under-provision and how the Council would seek, firstly, for the net gain to be provided off-site but in a nearby location, and secondly, what the Council will fund with any financial contributions.

Sustainable Drainage

8.0.16 The Local Plan requires that Sustainable Drainage Systems (SuDS) are in place, having been agreed with the Lead Local Flood Authority (LLFA) with engagement with the Environment Agency and Internal Drainage Boards as appropriate.

8.0.17 SuDS solution should be provided either on- or off-site, with a preference for on-site but an acceptance that this is not always possible. Financial contributions should not be sought in lieu of under-provision. The applicant must provide the SuDS to make the development acceptable in planning terms or the Council will have a reason to refuse the application.

8.0.18 SuDS schemes should be detailed and secured by planning condition or S106 to ensure their delivery and enforcement if not.

8.0.19 Where developers propose SuDS schemes that need to be adopted by the relevant sewerage company (Anglian Water or Thames Water being the two sewerage companies for the Stevenage area), the relevant sewerage company should be consulted. It should be noted that under the Water Industry Act, sewerage companies obtain charges directly from developers to ensure sites drain effectively where a connection to the public sewerage network is required so won't seek developer contributions for this purpose. However, they may require planning conditions to address the risk of downstream flooding when a foul and/or surface water connection is required

9 Site-Specific Mitigation

CIL Regs 2010 - Regulation 122

9.0.1 There will be instances where developments will have to provide S106 contributions in addition to paying a CIL charge in order to mitigate the impacts of their development and make the proposal acceptable in planning terms. Where the Council or infrastructure/service provider (such as HCC as Education Authority) identify a site-specific impact of a development that requires mitigation through a S106 agreement, they will have to justify how the requirement meets the three tests of Regulation 122 from the CIL Regulations 2010 (as amended) as discussed in paragraph 2.0.7.

9.0.2 The rest of this Section sets out what we expect to be some of the most commonly required contributions to mitigate site-specific impacts.

NHS GP Surgeries

9.0.3 The NHS runs GP surgeries throughout the borough, with facilities often a key aspect of the local area. Additional residential development puts specific demand on existing facilities because residents, generally, tend to want to join a GP practice that is close to their home.

9.0.4 As such, although other NHS requirements, such as acute care, would be dealt with by CIL due to their nature of being planned on a wider catchment area, the Council will continue to seek NHS contributions where there is a clear demand placed on existing GP surgeries from proposed developments.

9.0.5 For strategic sites identified in the Local Plan, provision of new GP surgeries is a policy requirement which will be confirmed through engagement with the NHS at the time of an application being submitted. If the NHS confirms they are no longer seeking a GP surgery on site, a payment in-lieu of provision will be sought to increase/improve capacity elsewhere. For non-strategic sites, the NHS will be consulted as part of the application process and will be able to demonstrate if a proposed development causes an increase in demand for facilities that requires mitigation.

9.0.6 If so, a financial contribution to the expansion, renovation or replacement of a GP surgery will be calculated based on the population of the new development, the likely demand for places at the surgery, the cost of providing GP facilities as demonstrated by the NHS's most up to date data, and the specific project required.

Primary Education

9.0.7 Hertfordshire County Council, as Local Education Authority, has a legal obligation to ensure there are enough education places for the resident population. As such, they often seek developer contributions towards education projects to provide additional spaces.

9.0.8 As discussed earlier, many of the HCC obligations sought are now covered by the Council's CIL Charging Schedule and HCC will be able to bid for CIL funding where they identify projects to increase capacity for the borough.

9.0.9 However, in instances where a development creates an impact and mitigation must be implemented to ensure a proposed scheme is acceptable in planning terms, HCC will request financial contributions to fund that scheme.

9.0.10 This is most likely to occur for developments in and around the Town Centre where primary education capacity is low due to the historic low levels of residential development and the subsequent lack of need for primary schools there.

9.0.11 With the Town Centre regeneration and many private schemes being proposed and brought forward in the area, a new demand for education is being created. Land for a 2-Form Entry primary school is being provided within the Town Centre and this facility will be used to meet the needs of the majority of new developments in the surrounding area, not just the Town Centre, as defined in the Local Plan, because of the lack of alternative schools nearby, the lack of future capacity within these schools and in the wider area, and also the lack of ability for those schools to expand due to constraints on-site as identified by HCC.

9.0.12 As such, it is likely that HCC will seek financial contributions towards build costs and purchasing land for the school from nearby developments where they can demonstrate that pupils arising from those developments will place demand on Town Centre education, predominantly at the new school.

9.0.13 The contributions will be sought in line with the aforementioned HCC Guide to Developer Contributions, or replacement/updated versions.

Sustainable Transport and Passenger Transport

9.0.14 Sustainable Transport is a key priority for the Council and Hertfordshire County Council. The Local Plan identifies development in sustainable locations but there may still be requirements to ensure that developments have sufficient sustainable transport links to be considered acceptable in planning terms.

Proposed Town Centre Bus Station



9.0.15 Sustainable transport links include creating appropriate access for residents or other users to use active modes of transport, such as cycling and walking, as well as public transport such as, buses and trains. Ideally, developments will be designed to ensure that these forms of transport are attractive enough to persuade their use instead of the use of privately-owned cars. This is to match the Policy 1 of HCC's Local Transport Plan to promote a modal shift in transportation. It should be noted that the top of the Hierarchy is to prevent the need to travel in the first place which will be considered in the first instance, and active and sustainable forms of transport should be considered thereafter.

9.0.16 Developments will therefore be expected to provide excellent links for cycling and walking. In particular, vulnerable pedestrians such as those with disabilities, with sight impairments, the elderly and children should be actively accommodated. This may require the provision of cycle routes on- and off-site to ensure high quality access to local facilities or to link to Stevenage's existing extensive cycle and walkways. These may be provided directly by the developer and secured through a Section 278 agreement, or by way of a financial contribution secured by a S106 agreement for HCC or a third party to deliver.

9.0.17 Developments should meet the requirements of Local Plan policy for access to bus services. Often, this will involve the provision of new bus stops for existing bus services to use and therefore provide the development's population the public transport service. Where bus stops already exist in suitable locations, upgrades in the form of raised Kassel kerbing, shelters, and RTI displays may be considered necessary.

9.0.18 In some instances, likely to be edge-of-town extensions, new bus services or extensions to existing routes will be required. These will be sought through financial contributions in the S106. The level of provision will need to be discussed with the HCC Passenger Transport Unit and this will focus on the number of vehicles and frequency of services on the route. Once these are agreed to ensure that a development meets its sustainable transport needs, the Passenger Transport Unit will demonstrate the financial provision required to implement the new services.

Travel Plans

9.0.19 All major developments will require a travel plan. For the latest good practice, see HCC's Travel plan Guidance 2020 ⁽⁸⁾ A financial contribution will be required through the S106 towards the cost of evaluating, administering and monitoring the objectives of the Travel Plan and engaging in a Travel Plan Annual Review. The Annual Review will be undertaken by HCC Highways.

9.0.20 Potential mitigation measures should also be set out, costed and indexed within the S106 agreement so that a developer can be obligated to fund mitigation work if HCC's annual monitoring shows that the objectives of the Travel Plan are not being met by the agreed timescales.

Management of Public Realm

9.0.21 Contributions towards public realm maintenance and enhancements of town centre or neighbourhood centres will be sought from developments which are likely to cause a significant increase in footfall at these locations. This is likely in town centre developments and strategic sites which provide new neighbourhood facilities at the heart of their development but could also be required from neighbourhood centre regeneration schemes and large sites near to existing neighbourhood centres.

9.0.22 Where new, or significant changes to the public realm are proposed through a development, management will be secured through the S106 agreement either by the developer appointing a management company on a sufficient long-term agreement, or where land is to be transferred to the Council, by providing financial contributions that suffice to expand the Councils existing maintenance regime to the proposed new areas of public realm.

8 <https://www.hertfordshire.gov.uk/media-library/documents/highways/development-management/travel-plan-guidance.pdf>

9.0.23 Where new developments are likely to put increased demand on the existing public realm, contributions may be sought to enable the public realm to meet the additional demand. This could be through the provision of public bicycle parking, signage, improvements to public facilities such as toilets, and/or improvements to the design and state of public areas.

9.0.24 In such circumstances, it is considered that the contributions to improving the public realm would create a direct benefit to the development itself, creating a better local environment for users/residents of the proposed development and adding to the vitality of the area as a whole.

Fire Hydrants

9.0.25 Hertfordshire County Council, in its capacity as the Fire and Rescue Authority, has a statutory duty to ensure that all development is provided with adequate water supplies for firefighting. The provision of public fire hydrants is not covered by Building Regulations 2010 and developers are expected to make provision for fire hydrants to adequately protect a development site for firefighting purposes.

9.0.26 The need for hydrants will be determined through consultation with HCC at the time of application although the exact location and delivery of hydrants is frequently determined at the time the water services for the development are planned which is often after permission has been granted. Historically, fire hydrants have been secured by S106 agreement but where possible they will be secured through the planning system.

Remediation of Contaminated Land

9.0.27 The Local Plan states that proposals on brownfield sites will be granted where a Preliminary Risk Assessment (PRA) demonstrates that any necessary remediation and subsequent development poses no risk to the population, environment and groundwater bodies.

9.0.28 Where the PRA states that remediation is necessary, schemes should be detailed and secured by condition or in a S106 agreement to ensure their delivery and enforcement.

Miscellaneous

9.0.29 As previously mentioned, it is not possible for the Council to list every potential example of site-specific mitigation that may be required to enable a proposal for development to be considered acceptable in planning terms.

9.0.30 As such, the Council reserves the right to seek developer contributions either through on- or off-site provision or by financial contribution to items not mentioned in this SPD. However, the Council or any other body requesting S106 contributions meets the three tests included in Regulation 122 of the CIL Regulations 2010 (as amended).

10 Construction Employment Opportunities for Stevenage Residents

Local Employment and Apprenticeships

10.0.1 The Council has always maintained that it is a pro-development authority, acknowledging that the benefits of development contribute to the economic growth of the town and subsequently benefit the town's residents and workforce. The continued expansion of the town since its first designation as a Mark 1 New Town is testament to this and the planned continuation of this growth through high quality, planned development identified in the Local Plan and recent planning decisions seeks to continue this trend.

10.0.2 However, the Council would like to ensure that a key direct benefit of promoting future growth is safeguarded for its residents. This SPD therefore introduces a new requirement that developers of major development⁹ will sign a S106 agreement with the Council to:

- attempt to fill 5% to 10% of construction jobs on-site associated with their development with Stevenage residents,
- attempt to fill one apprenticeship position per 10 construction jobs on-site with a Stevenage resident or student (with a cap for requirement of 10 apprenticeships),
- report whether or not they met these requirements, and
- provide a financial contribution in lieu of not achieving either or both targets.

10.0.3 To do this, the developer must provide a Local Employment Strategy at the application stage which shows:

- an estimate of how many construction jobs their scheme will create,
- how many jobs should therefore be filled with Stevenage residents,
- how many apprenticeships positions should therefore be filled with Stevenage residents or students,
- how they will target local residents/students for these positions,
- how they will record and report the employment, and
- the potential in-lieu payments required to be paid to the Council for non-compliance with the targets.

10.0.4 The Local Employment Strategy might include targeting recognised local initiatives or partnerships, or the use of in-house schemes. It is advised that the developer engages with Stevenage Works when producing their Local Employment Strategy. Stevenage Works is a partnership between the Council, Stevenage Job Centre Plus and North Hertfordshire College to provide training and job opportunities including apprenticeships for young and unemployed people. The North Hertfordshire College campus within Stevenage provides training and seeks to provide apprenticeship opportunities for construction industries amongst many others and Job Centre Plus looks to help unemployed people find employment opportunities. Stevenage Works has committed to maintaining a database of suitable candidates for apprenticeship or employment roles and will field responses to any requests from developers looking for local candidates for such opportunities.

⁹ The threshold for a major development is any application that involves mineral extraction, waste development, the provision of 10+ residential dwellings / a site area over 0.5 Hectares or a floorspace of over 1,000sqm / an area of 1 hectare. For Stevenage, it is most likely that the relevant major developments will be those that provide 10+ dwellings or over 1,000 sqm of non-residential floorspace.

10.0.5 The monitoring report, to be submitted at an agreed time after construction has commenced, should be submitted to the Council showing how the developer/contractor has met or failed to meet the targets.

10.0.6 If the report shows that local recruitment targets have not been met by the developer or contractor, payments in lieu should be made to the Council in line with the following:

- £4,000 per number of targeted jobs not filled by Stevenage residents,
- £2,000 per number of targeted apprenticeships not filled by Stevenage residents or students, and
- £250 per apprenticeship position as an administrative fee towards the brokerage system to fill apprenticeship positions.
- If a major development could not provide suitable apprenticeship opportunities due to the quick construction of the development project, and the resultant lack of suitable opportunity to provide apprenticeships, they should pay a lesser fee of £1,000 per number of targeted apprenticeships not created rather than the £2,000 fee.

10.0.7 This money will go towards a new Local Training Fund, managed by the Council, to allow for the promotion of employment opportunities elsewhere in the borough. The Fund would be open to an annual round of applications to fund:

- Stevenage residents to help fund training opportunities, and/or
- Local micro-businesses⁽¹⁰⁾ to fund short term employment opportunities for Stevenage residents.

10.0.8 The fees are considered appropriate so as not to affect the viability of a scheme, but to provide potentially significant funds to those wanting to undertake training or provide jobs for local residents. See below for a worked example:

10 As defined by the European Union and UK Government, a micro business is one with 0-9 employees (or Full time equivalent) and an annual turnover under £2million

Worked Example

The Local Employment Strategy of a major development estimates it will create 30 on-site construction jobs.

5% Local Employment Target:

$$5\% \text{ of } 30 = 1.5$$

Round up 1.5 = a target of 2 Stevenage residents to be employed in construction jobs on-site

The subsequent monitoring report shows 1 Stevenage resident was employed

This is a shortfall of 1 local employee

$$1 \times £4,000 = \textbf{£4,000} \text{ in lieu contribution.}$$

1 apprenticeship per 10 construction workers target:

$$30 / 10 = 3$$

3 = a target of 3 apprenticeships on-site to be filled by Stevenage residents or students

The subsequent monitoring report shows that 2 of the apprenticeships were filled with Stevenage residents or students

This is a shortfall of 1 local apprentice

$$1 \times £2,000 = \textbf{£2,000} \text{ in lieu payment.}$$

Administrative Fee

3 = a target of 3 apprenticeships on-site

$$3 \times £250 = \textbf{£750} \text{ administrative fee towards brokerage system to fill apprenticeship positions.}$$

Overall:

$$\textbf{£4,000 + £2,000 + £750 = £6,750 in lieu payment towards the Local Training Fund and brokerage system}$$

10.0.9 The targets do not add a requirement for additional jobs that add financial burden to the developer or contractor. The targets merely add a requirement that a portion of the jobs will be targeted for local residents.

10.0.10 The in lieu payments do not add a significant financial burden to the developer or contractor. The in-lieu payment will only be required if the developer or contractor does not meet the employment targets.

11 Parking and Sustainable Transport

Parking Controls

11.0.1 Sustainable transport remains a significant priority of the Council and the issue of car parking is closely related. The Council recently adopted a new Parking Provision and Sustainable Transport SPD which sets lower parking requirements than previous requirements to promote the use of other forms of transport in the most accessible locations in Stevenage.

11.0.2 Parking continues to be an emotive and important aspect of development and it is important that reduced levels of parking provision within new developments do not lead to overspill parking, and other parking issues in nearby locations.

11.0.3 As such, the Council will seek developer contributions towards the management of parking in nearby locations, particularly for developments which have provided parking at a level lower than stated within the Parking Provision and Sustainable Transport SPD. Historically, the Council has requested payments for parking monitoring and parking studies but with the quantity of development coming forward in the coming years, it is considered important to seek contributions towards the prevention of such parking which effects residents other than those at the development causing the issue.

11.0.4 Depending on the projected or recorded issues, the Council may request contributions towards increased parking controls by wardens or towards funding the pursuit of formal Restrictive Parking Zones. The most appropriate solution and the sought contributions towards the solution will be determined on a case-by-case basis through engagement with the Council's internal Parking Team, and will be based on the size of the development, the findings of any relevant parking studies and the size of the affected area.

Car Pooling Clubs and Other Sustainable Schemes

11.0.5 Another way of reducing overspill parking in developments with low levels of parking provision, is the provision of alternative forms of transport that reduce the perceived need of its residents for their own car.

11.0.6 The Council will support the provision and ongoing management of car pooling clubs through S106 agreements, particularly those that use electric vehicles. Communal car schemes can offer residents or employees the confidence that on the odd occurrence they need a car, one will be available to them at a fraction of the cost of owning and running their own vehicle.

11.0.7 Car pooling has the additional benefit of offering the ability to reduce private car parking provision, enabling a better and more attractive design and a more financially viable scheme. A sufficient car-club could be used to reduce the overall parking provision of a development.

11.0.8 Alternatively, developers could improve the sustainability of their development by contributing to projects such as bike hire schemes, electric charging points and lift-share clubs.

12 Processes and Procedures

Pre-Application

12.0.1 It is not always possible for the Council to give details regarding the likely S106 agreement at this early stage of a development due to the level of detail needed to calculate some financial contributions. However, pre-application discussions enable the Council to clarify policy requirements and key considerations which will be prudent to the negotiations and inclusions of any future S106 agreement.

12.0.2 It is likely to be possible to outline draft heads of terms at the stage, at the very least to give an indication of the type of contributions that may be requested, and to aid viability studies to be submitted with the planning application if the applicant raises viability as a potential issue. However, where details are not known, particularly if an outline application is to be submitted, the Council may have to generate estimates of any expected developer contributions by scaling up or down similar historic, policy-compliant schemes which were considered, at this early stage, to have a similar level of impact.

12.0.3 Where the Council identifies that contributions may be sought by other bodies, such as Hertfordshire County Council or the NHS for example, the applicants should consult those bodies themselves and be aware that this may incur further pre-application fees. Alternatively, the Council can provide estimates but these would be heavily caveated and could not be used by the applicant in later viability assessments to argue that a scheme is unviable and that contributions should be reduced accordingly.

Application

12.0.4 Once an application has been submitted to the Council, it will be the Council's obligation to coordinate and compile all information related to requests for developer contributions between the applicant and those seeking the contribution, and how they meet three tests of Regulation 122 of the CIL Regulations 2010.

12.0.5 This approach, rather than the applicant contacting infrastructure/service providers themselves, ensures that the Council and applicant both have a full picture of all the contributions being sought and can progress discussions with a holistic approach.

12.0.6 If the applicant does not agree with the need or the calculation of developer contributions, they will feed their arguments to the relevant infrastructure/service provider via the Council's appointed case officer.

12.0.7 Where applicants and infrastructure/service providers cannot agree developer contributions and cannot agree to the heads of terms in order to sign a S106 agreement, the Council may consider that a reason to refuse the application based on Policy SP5: Infrastructure of the Local Plan.

12.0.8 If the contents of a S106 can be agreed, the costs for drafting and checking legal agreements will be met by the applicant and the Council will work diligently to ensure the S106 can be signed without undue delay.

12.0.9 Where it is considered that the drafting and agreement of a S106 agreement would put an unnecessary cost or delay to a development, the Council will look to use a Unilateral Agreement to secure the financial contributions instead of a S106 agreement. This could be in instances where there are only a small number of contributions or where the overall level of contribution is low. For example, this could be for a development which is only due to provide a payment towards biodiversity net gain and/or apprenticeship opportunities. The Council will publish a template Unilateral Agreement for use in such circumstances.

Planning and Development Committee

12.0.10 Where proposals are to be presented to Committee for Councillors to determine whether or not to approve the scheme following a recommendation by the case officer, S106 Heads of Terms should be agreed prior to the Committee meeting to ensure that Councillors involved in decision making have sufficient information to make a decision of whether the scheme is mitigating its impacts sufficiently.

Monitoring

12.0.11 The Council will monitor and seek collection of developer contributions on behalf of all bodies who contributions were secured for in the S106. This might include requesting payments for Hertfordshire County Council, the NHS or Sport England for example.

12.0.12 If the Council has collected money for other bodies, it will transfer the money expediently and demonstrate to the applicant that it has transferred the money.

Deeds of Variation

12.0.13 If a Deed of Variation is required by the applicant, the Deed of Variation must be agreed by the Council and any other bodies affected by the amendment. The cost of implementing the Deed of Variation will lie with the applicant.

13 Monitoring Fees

Monitoring Fees

13.0.1 The Council will request fees to cover monitoring S106 agreements. This includes requesting payments, ensuring transfer and/or expenditure of money, and keeping/publishing records of developer contributions in line with the regulations. Monitoring of S106 is a time-consuming tasks that can remain ongoing for the best part of a decade in many instances.

13.0.2 The Council will seek 2.5% of the value of the contributions being monitoring with a minimum of £750 and a cap of £25,000. This is considered a fair cost that will reflect the value of the S106 agreement and will not affect the viability of a scheme.

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